

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

WILLIAM JAMES GAERTNER, Jr.

Petitioner,

v.

CAROL HOWES,

Respondent,

Civil No. 05-71940-DT

HONORABLE LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

OPINION AND ORDER

Petitioner filed a Petition for Writ of Habeas Corpus on May 17, 2005. Respondent filed a Motion for Summary Judgment on November 15, 2005. Petitioner did not respond, and on March 6, 2006, the Court granted Respondent's motion. On March 21, 2006, Petitioner filed a response to Respondent's motion. Petitioner did not provide any explanation for the untimeliness of his response, which was filed nearly four months late. The Court will therefore treat Petitioner's response as a Motion for Relief from Judgment pursuant to Federal Rule of Civil Procedure 60.

Petitioner has not demonstrated that any of the reasons listed in Rule 60 for relief from judgment are met in his case. Petitioner has not shown excusable neglect, newly discovered evidence, or fraud. All of the arguments raised by Petitioner were available to him prior to the Court's entry of Judgment. Therefore, Petitioner's motion for relief is **HEREBY DENIED**.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff

LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: May 25, 2006

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on May 25, 2006.

s/Marie E. Verlinde

Case Manager

(810) 984-3290